

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GILEAD SCIENCES, INC.,

Plaintiff,

11 || V.

BIO-GENETIC VENTURE, INC., et al.,

Defendants.

CASE NO. C06-1416JLR

ORDER

This matter comes before the court on a motion to disburse funds from Defendant Dave Syferd and Partners, Inc. (“Syferd”) (Dkt. # 23). Having reviewed the motion and all documents filed in support and opposition, the court DENIES without prejudice Syferd’s motion as premature.

This is an interpleader action that was originally filed in the King County Superior Court for the State of Washington. Defendant United States properly removed the action to this court. The dispute arises from the acquisition by Plaintiff Gilead Sciences, Inc. (“Gilead”) of Corus Pharma, Inc. (“Corus”) and resulting payment to Corus’ shareholders. Under the terms of an August 11, 2006 merger agreement, Gilead is obligated to exchange \$467,009.31 for Defendant Bio-Genetic Ventures’ 301,851 shares of Corus stock. See Am. Compl. Gilead alleges that it may be exposed to multiple liability for the payment of this sum because Defendants Bio-Genetic, BGV Holdings,

ORDER - 1

1 Syferd, United States IRS, and Does 1 through 10 claim conflicting interests in the
2 \$467,009.31 merger consideration. Id.

3 The court observes that Gilead has not effectuated service on, as yet unidentified,
4 Defendants Does 1-10. Under Fed. R. Civ. P. 4(m), Gilead has 120 days from the filing
5 of its amended complaint on October 4, 2006 to serve Does 1-10. A decision on the
6 merits of Syferd's motion to disburse would necessarily prejudice any remaining
7 claimants' entitlement to the stake. The court therefore concludes that consideration of
8 Syferd's motion would be premature until Gilead effectuates service upon all defendants
9 in this matter.

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11 Dated this 25th day of January, 2007
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15 JAMES L. ROBART
16 United States District Judge
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